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Ad Hoc Intergovernmental Meeting on a Regional Arrangement for the Facilitation of Cross-border Paperless Trade

Bangkok, 22-24 April 2014

Annotated provisional agenda

The present document contains the provisional agenda for the Ad Hoc Intergovernmental Meeting on a Regional Arrangement for the Facilitation of Cross-border Paperless Trade (section I) and the annotations thereto (section II).

I. Provisional agenda

1. Opening of the meeting:
   - (a) Opening address;
   - (b) Election of officers;
   - (c) Adoption of the agenda.
2. Update on the implementation of Commission resolution 68/3.
3. Introduction to United Nations treaties and the roles and obligations of parties.
4. Consideration of the draft text of a regional arrangement for the facilitation of cross-border paperless trade:
   - (a) Preamble;
   - (b) Substantive clauses;
   - (c) Final clauses.
5. Other matters.
6. Adoption of the revised draft text of a regional arrangement for the facilitation of cross-border paperless trade.
7. Adoption of the report of the meeting.

II. Annotations

1. Opening of the meeting

(a) Opening address

A senior official from the secretariat will open the meeting and deliver an opening statement.

(b) Election of officers

The meeting will elect a chair, vice-chairs and a rapporteur.

(c) Adoption of the agenda

Documentation

Annotated provisional agenda (E/ESCAP/PTA/IGM.1/L.1)

Annotation

The meeting will consider and adopt the annotated provisional agenda, subject to such changes as may be necessary.

2. Update on the implementation of Commission resolution 68/3

Documentation

Update on the implementation of Commission resolution 68/3 (E/ESCAP/PTA/IGM.1/1)

Annotation

The document submitted by the secretariat contains a brief description of the background to Commission resolution 68/3 on enabling paperless trade and the cross-border recognition of electronic data and documents for inclusive and sustainable intraregional trade facilitation. It also contains an overview of the progress made so far in implementing the resolution, including the development of a regional arrangement for the facilitation of cross-border paperless trade.

3. Introduction to United Nations treaties and the roles and obligations of parties

A representative of the United Nations Office of Legal Affairs will provide an introduction to international treaties and the Vienna Convention on the Law of Treaties, and the roles and obligations of States under international treaty law.

4. Consideration of the draft text of a regional arrangement for the facilitation of cross-border paperless trade

(a) Preamble

(b) Substantive clauses

(c) Final clauses

Documentation

Draft text of a regional arrangement for the facilitation of cross-border paperless trade (E/ESCAP/PTA/IGM.1/WP.1)

Annotation

The meeting will review and consider the draft text of a regional arrangement, which incorporates, as appropriate, the comments and suggestions received from member States during three subregional meetings and one regional meeting that were held in 2013.

5. Other matters

Under this agenda item, the meeting may wish to consider other matters.

6. Adoption of the revised draft text of a regional arrangement for the facilitation of cross-border paperless trade

Documentation

Revised draft text of a regional arrangement for the facilitation of cross-border paperless trade (E/ESCAP/PTA/IGM.1/L.2)

Annotation

The meeting will consider for adoption the draft text of a regional arrangement for the facilitation of cross-border paperless trade.

7. Adoption of the report of the meeting

Documentation

Draft report (E/ESCAP/PTA/IGM.1/L.3)

Annotation

The meeting will consider for adoption the draft report.

United Nations E/ESCAP/PTA/IGM.1/L.2

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Ad Hoc Intergovernmental Meeting on a Regional Arrangement for the Facilitation of Cross-border Paperless Trade

Bangkok, 22-24 April 2014
Agenda item 7
Adoption of the report

Draft report

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I. Matters calling for action by the Commission or brought to its attention

A. Agreement/Framework Agreement/Framework Arrangement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific

The Meeting adopts the draft Agreement/Framework Agreement/ Framework Arrangement on Facilitation of Cross-border Paperless Trade, which appears below, and requests the Commission to endorse the establishment of the interim intergovernmental steering group on cross-border paperless trade facilitation.

Agreement/Framework Agreement/Framework Arrangement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific

The Parties to the present Agreement [Framework Agreement] (hereinafter referred to as "the Parties"),

Conscious of the importance of trade as an engine of growth and development and the need to increase the efficiency of international trade transactions to maintain and enhance the competitiveness of the region,

Recognizing that paperless trade makes international trade more efficient and transparent while improving regulatory compliance, particularly if trade-related data and documents in electronic form are exchanged across borders,

Noting that the trade and supply chain security initiatives under implementation in major export markets will make it increasingly necessary for all actors in the international supply chain to exchange data and documents electronically,

Considering the fact that many countries of the Asia-Pacific region are currently engaged in implementing electronic systems at the national level to expedite processing of trade-related data and documents,

Also considering the fact that countries of the Asia-Pacific region increasingly include provisions for electronic exchange of information in their trade agreements,

Recognizing the conclusion of the negotiation of the Agreement on Trade Facilitation at the ninth Ministerial Conference of the World Trade Organization and the importance of the implementation of the Agreement,

Aware that facilitating mutual recognition and exchange of trade-related data and documents in electronic form between landlocked and transit countries would significantly reduce transit time and costs, and enhance trade and development opportunities for the landlocked countries,

Also aware that facilitating exchange of trade-related data and documents in electronic form would particularly enable small and medium-sized enterprises to more effectively participate in international trade and enhance their competitiveness,

Mindful of the different levels of economic as well as information and communications technology development of the Parties,

Acknowledging that the availability of information and communications technology and related physical infrastructure is not sufficient in some countries to ensure sustainable business development,

Noting the necessity to establish an enabling legal environment in order to maximize the benefits associated with cross-border paperless trade,

Desirous of formulating a legal framework to deepen and broaden cooperation in cross-border paperless trade facilitation among the Parties and to chart the future developments in this area,

Hereby *agree* as follows:

Article 1
Objective

The objective of the present Agreement [Framework Agreement] is to promote cross-border paperless trade by enabling exchange and mutual recognition of trade-related data and documents in electronic form and facilitating interoperability among national and subregional single windows and/or other paperless trade systems, for the purpose of making international trade transactions more efficient and transparent while improving regulatory compliance.

Article 2
Scope

The present Agreement [Framework Agreement] applies to paperless trade between the Parties.

Article 3
Definitions

For the purpose of the present Agreement [Framework Agreement]:

(a) "Paperless trade" means trade taking place on the basis of electronic communications, including exchange of trade-related data and documents in electronic form;

(b) "Trade" means international trade in goods, including their import, export, transit and related services;

(c) "Electronic communication" means any communication that the parties make by means of data messages;

(d) "Data message" means information generated, sent, received or stored by electronic, magnetic, optical or similar means, including, but not limited to, electronic data interchange;

(e) "Trade-related data" means data contained in or transmitted in connection with a trade-related document;

(f) "Trade-related documents" means documents, both commercial and regulatory, required in completing commercial transactions;

(g) "Commercial transactions" means transactions relating to the sale of goods between parties whose places of business are in different territories;

(h) "Mutual recognition" means reciprocal recognition of the validity of trade-related data and documents in electronic form exchanged across borders between two or more countries;

(i) "Single window" means a facility that allows parties involved in a trade transaction to electronically lodge data and documents with a single entry point to fulfil all import, export, and transit-related regulatory requirements;

(j) "Interoperability" means the ability of two or more systems or components to exchange information and to use the information that has been exchanged.

Article 4
Interpretation

Any interpretation of the present Agreement [Framework Agreement] must have due regard for the general principles on which it is based, for its international character and for the need to promote uniformity in its application. **[Russian Federation to propose rewording]**

Article 5
General principles

1. With recognition of the right to regulate, the present Agreement [Framework Agreement] shall be guided by the following general principles:

(a) Functional equivalence: functions of paper-based requirements should be analysed to determine how those functions could be fulfilled through electronic means;

(b) Promotion of interoperability;

(c) Improved trade facilitation and regulatory compliance;

(d) Cooperation between the public and private sectors;

[(e) Unification: Interoperable information and communications technologies should have unified formats of information while maintaining the unique content; ["content" to be replaced by "international codification" (Islamic Republic of Iran)]

(f) Scalability: Interoperable systems should have and maintain the capacity to enrol new participants from both within and outside the country, enabling them to start operating quickly;

(g) Equal reliability of infrastructure, which implies common security requirements for all Parties. (Russian Federation)]

2. The Parties agree that implementing national legislation and regulations that apply these principles to the exchange of trade-related data and documents **[including those for pre-shipment transboundary data exchange (India)]** in electronic form will establish common levels of trust and increase interoperability.

Article 6
National policy framework, enabling domestic legal environment and paperless trade committee

1. The Parties shall endeavour to establish a national policy framework for paperless trade, which may define targets and implementation strategies, allocate resources, and a legislative framework.

2. The Parties shall endeavour to create an enabling domestic legal environment for paperless trade in conformity with international standards and best practices.

3. The Parties may establish a national committee, comprised of relevant representatives of government and private sector parties, in accordance to their domestic environment. The committee will promote a legally enabling domestic environment for exchange of trade-related data and documents in electronic form as well as facilitate interoperability of cross-border paperless trade. The Parties may alternatively rely on a similar body already functioning domestically in lieu of establishing a separate committee and may designate that body, or an appropriate organizational unit or working group within it, as the national committee for the purpose of the present Agreement [Framework Agreement].

Article 7
Facilitation of cross-border paperless trade and development of single windows

1. The Parties shall endeavour to facilitate cross-border paperless trade by enabling exchange of trade-related data and documents in electronic form, utilizing the existing systems in operation or creating new systems.

2. The Parties are encouraged to develop their single window systems and use them for cross-border paperless trade. In developing single window systems or upgrading existing ones, the Parties are encouraged to make them consistent with the general principles provided in the present Agreement [Framework Agreement].

Article 8
Cross-border mutual recognition of trade-related data and documents in electronic form

1. The Parties shall provide for mutual recognition of trade-related data and documents in electronic form originating from other Parties on the basis of a substantially equivalent level of reliability. To this extent, the Parties may constitute a technical group among themselves with the existing focal points.

2. The substantially equivalent level of reliability would be mutually agreed upon among the Parties through the institutional arrangement established under the present Agreement [Framework Agreement].

Article 9
International standards for exchange of trade-related data and documents in electronic form

1. The Parties shall endeavour to apply international standards and guidelines in order to ensure regional and global interoperability in paperless trade and develop safe and secure communication protocols for the exchange of data.

2. The Parties are strongly encouraged to become involved in the development of international standards and best practices related to cross-border paperless trade.

Article 10
Relation with other legal instruments enabling cross-border paperless trade

1. The Parties shall, where appropriate, take into account, and whenever possible adopt, available and accepted international legal instruments made by relevant United Nations bodies and other international organizations, such

as the United Nations Convention on the Use of Electronic Communications in International Contracts (move to Preamble: Republic of Korea, Islamic Republic of Iran, China).[1]

2. The Parties shall endeavour to ensure that the cross-border exchange of trade-related data and documents in electronic form is consistent with international law as well as regional and international regulations and best practices. The relevant provisions of international law, regional and international regulations, and best practices shall be decided on by the institutional arrangement established under the present Agreement [Framework Agreement].

Article 11
Legal liability framework

The Parties shall endeavour to establish an adequate legal and regulatory framework to address specific liability and enforcement issues that may arise in relation to the cross-border exchange of trade-related data and documents in electronic form. **[The data utilization by member Customs administrations and other government agencies should adhere to the principles of commercial secrecy, should prohibit unauthorized access and should allow for remedial provisions, including compensation for any commercial losses. The necessary legal protection from liability for member Customs administrations should also be incorporated. (India, Islamic Republic of Iran)]**

Article 12
Institutional arrangements

1. The United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) shall, for the purposes of the present Agreement [Framework Agreement], establish a paperless trade council comprising one (1) ministerial-level nominee from each Party and the Executive Secretary of ESCAP. The Council shall meet once a year.

2. In the performance of its functions, the Paperless Trade Council shall be supported by a standing committee, which shall supervise and coordinate the implementation of the present Agreement [Framework Agreement] and submit its recommendations to the Council for review. The Standing Committee shall be composed of senior representatives of each Party and will meet at least once a year.

3. For the purposes of implementing the Agreement [Framework Agreement], the Standing Committee may establish working groups comprising relevant technical or legal experts which shall report to the Standing Committee on the implementation of the related action plan under the present Agreement [Framework Agreement].

4. The ESCAP secretariat shall be designated the Secretariat of the Agreement [Framework Agreement]. It shall also be the secretariat of the bodies established under the present Agreement [Framework Agreement]. It shall provide support in coordinating, reviewing and supervising the implementation of the present Agreement [Framework Agreement] and in all related matters.

[1] General Assembly resolution 60/21, annex.

Article 13
Action plan

1. The Standing Committee, under the supervision of the Paperless Trade Council, shall develop a comprehensive action plan, which shall include all concrete actions and measures with clear targets and implementation timelines necessary for creating a consistent, transparent and predictable environment for the implementation of the present Agreement [Framework Agreement] including the implementation schedules of the respective Parties. The Parties shall implement the action plan in accordance with the schedule, and the implementation status of each Party shall be reported to the Standing Committee.

2. The action plan shall incorporate a road map for the operationalization of cross-border paperless trade, including the adoption of international standards, implementation of pilot projects and capacity-building related to the present Agreement [Framework Agreement]. It should also incorporate a mechanism for the assessment of existing legal frameworks and technological gaps and for their further improvement in order to enable paperless trade.

Article 14
Pilot projects and sharing of lessons learned

1. The Parties shall endeavour to initiate and launch pilot projects on cross-border exchange of trade-related data and documents in electronic form, in particular among customs and other regulatory agencies. The Parties shall collaborate on such pilot projects through the institutional arrangement established under the present Agreement [Framework Agreement].

2. The Parties may report to the Standing Committee on the progress of pilot projects to facilitate the sharing of experience and lessons learned and to establish a collection of best practices for interoperability of cross-border exchange of trade-related data and documents in electronic form. The exchange of experience and lessons learned would extend beyond the Parties to the present Agreement [Framework Agreement], to the extent possible and as appropriate, in an effort to promote paperless trade implementation throughout the region and beyond.

Article 15
Capacity-building

1. The Parties shall [may (Bangladesh, Islamic Republic of Iran)] cooperate to provide technical support and assistance to each other in order to facilitate the implementation of the present Agreement [Framework Agreement]. Technical assistance shall be provided through various mechanisms, including a "request and offer" approach, to facilitate exchanges of skills and best practices.

2. The Parties may collaborate on capacity-building through the institutional arrangement established under the present Agreement [Framework Agreement].

3. Special consideration shall be given by the Parties to requests from least developed and land locked developing countries for technical assistance and cooperation arrangements designed to assist them in developing their paperless trade capacity and in taking full advantage of the potential benefits of the present Agreement [Framework Agreement].

4. The Parties may invite development partners for more effective technical and financial assistance in the implementation of the present Agreement [Framework Agreement].

Article 16
Implementation of the present Agreement [Framework Agreement]

1. Each Party shall endeavour to implement the provisions of the present Agreement [Framework Agreement] by creating a legally enabling environment and developing the necessary technical infrastructure to facilitate the cross-border exchange of trade-related data and documents in electronic form. The Parties recognize that the least developed and landlocked developing countries may need technical and financial assistance to develop technical infrastructure and to create a legally enabling environment, which are essential for facilitating the cross-border exchange of trade-related data and documents in electronic form.

2. An implementation schedule for each Party shall be developed as part of the action plan based on an assessment of the readiness of the Parties.

Article 17
Dispute resolution

1. Any dispute that may arise among the Parties regarding the interpretation and application of the present Agreement [Framework Agreement] shall be settled by means of negotiation or consultation among the Parties concerned.

2. In the event that the Parties to a dispute involving the present Agreement [Framework Agreement] are unable to settle it by negotiation or consultation, the Parties shall be referred to conciliation if any of the Parties to the dispute requests such a referral.

3. The dispute shall be submitted to one or more conciliators selected by the Parties involved in the dispute. If the Parties to the dispute fail to agree on [make (Japan)] the choice of a conciliator or conciliators within three (3) months after the request for conciliation, any of those Parties may request the Secretary-General of the United Nations to appoint a single conciliator to whom the dispute shall be submitted.

4. The recommendation of the conciliator or conciliators appointed, while not binding in character, shall become the basis of renewed consideration by the Parties to the dispute.

5. By mutual consent, the Parties to the dispute may decide in advance to accept the recommendation of the conciliator or conciliators as binding.

6. The provisions of the present Article shall not be construed as excluding other measures for the settlement of disputes mutually agreed between the Parties to the dispute.

Article 18
Procedure for signing and becoming a Party

1. The present Agreement [Framework Agreement] shall be open for signature by States members of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP member States) at

_____, on _____, and thereafter at United Nations Headquarters in New York from _____ to _____

2. The ESCAP member States referred to in paragraph 1 above may become Parties to the present Agreement [Framework Agreement] by:

(a) Signature subject to ratification, acceptance or approval; or

(b) Accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument with the Secretary-General of the United Nations.

Article 19
Entry into force

1. The present Agreement [Framework Agreement] shall enter into force ninety (90) days after the date on which the Governments of at least five (5) ESCAP member States have consented to be bound by the Agreement [Framework Agreement] pursuant to Article 18, paragraphs 2 and 3.

2. For each ESCAP member State which deposits its instrument of ratification, acceptance, approval or accession after the date upon which the conditions for the entry into force of the present Agreement [Framework Agreement] have been met, the Agreement [Framework Agreement] shall enter into force for that Party ninety (90) days after the date of its deposit of the said instrument.

Article 20
Procedures for amending the Agreement [Framework Agreement]

1. The text of the present Agreement [Framework Agreement] may be amended by the procedure specified in the present Article.

2. Amendments to the present Agreement [Framework Agreement] may be proposed by any Party.

3. The text of any proposed amendment shall be circulated to all members of the Paperless Trade Council by the secretariat at least sixty (60) days before the Council meeting at which it is proposed for adoption.

4. An amendment shall be adopted by the Paperless Trade Council by a two-thirds majority of the Parties present and voting. The amendment as adopted shall be communicated by the secretariat to the Secretary-General of the United Nations, who shall circulate it to all Parties for acceptance.

5. An amendment adopted in accordance with paragraph 4 of the present Article shall enter into force twelve (12) months after it has been accepted by two thirds of the number of Parties at the time of adoption [acceptance]. The amendment shall enter into force with respect to all Parties to the Agreement [Framework Agreement] except those which, before the twelve-month period specified above, declare that they do not accept the amendment. Any Party that has declared that it does not accept an amendment adopted in accordance with paragraph 4 may at any time thereafter deposit an instrument of acceptance of such amendment with the Secretary-General of the United Nations. The amendment shall enter into force for that Party twelve (12) months after the date of deposit of the said instrument.

Article 21
Reservations

Reservations may not be made with respect to any of the provisions of the present Agreement [Framework Agreement]. **(India considering to propose alternative text)**

Article 22
Withdrawal

Any Party may withdraw from the present Agreement [Framework Agreement] by written notification addressed to the Secretary-General of the United Nations. The withdrawal shall take effect twelve (12) months after the date of receipt by the Secretary-General of such notification.

Article 23
Suspension of validity

The operation of the present Agreement [Framework Agreement] shall be suspended if the number of Parties becomes less than five (5) for any period of twelve (12) consecutive months. In such a situation, the secretariat shall notify the Parties. The provisions of the Agreement [Framework Agreement] shall again become operative if the number of Parties reaches five (5).

Article 24
Limits to the application

Nothing in the present Agreement [Framework Agreement] shall be construed as preventing a Party from taking such action, compatible with the provisions of the Charter of the United Nations and limited to the exigencies of the situation, as it considers necessary for its external or internal security.

Article 25
Depositary

The Secretary-General of the United Nations shall be designated the depositary of the present Agreement [Framework Agreement].

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present Agreement [Framework Agreement],

OPENED for signature on the _____ at _____, in a single copy in the Chinese, English and Russian languages, the three texts being equally authentic.

B. Terms of reference for the interim intergovernmental steering group on cross-border paperless trade facilitation

The Meeting decides to establish the interim intergovernmental steering group on cross-border paperless trade facilitation under the auspices of the ESCAP secretariat with the following terms of reference.[2]

[2] See paragraph 32 below.

1. Name

This body shall be called the Interim Intergovernmental Steering Group on Cross-Border Paperless Trade Facilitation.

2. Membership

National focal points to the implementation of ESCAP resolution 68/3 from ESCAP members or official nominees of seats of Government of ESCAP members shall have an open invitation to participate in all the activities of the Steering Group.

3. Mission

The Steering Group shall have the following duties:

(a) To further improve the draft text of the regional arrangement as a potential intergovernmental agreement;

(b) To initiate preparatory work on the implementation of substantive provisions in the draft text, including:

(i) Cross-border mutual recognition of trade-related data and documents in electronic form;

(ii) An action plan (draft road map for operationalization of cross-border paperless trade and paperless trade gap assessments);

(iii) Pilot projects and sharing of lessons learned;

(iv) Capacity-building;

(v) Other relevant provisions.

4. Mode of operation

1. In carrying out its mission, the Steering Group shall convene regularly, either physically or virtually, but at least once every six months.

2. The Steering Group may elect officers, a chair and vice-chair(s) to conduct its regular meetings.

3. Participation in the meetings of the Steering Group shall be on a self-financed basis. However, participation of ESCAP least developed countries and landlocked developing countries in physical meetings may be supported by the secretariat on request, subject to the availability of the necessary financial resources.

4. To the extent possible, physical meetings shall be held in conjunction with capacity-building events.

5. The Steering Group may invite relevant regional experts, including experts from the United Nations Network of Experts for Paperless Trade in Asia and the Pacific (UNNExT), in conducting its duties.

5. Reporting

The Steering Group shall report progress made in carrying out its duties to the Commission at each of its sessions.

6. Secretariat

The ESCAP secretariat, specifically the Trade Facilitation Unit, shall serve as the secretariat of the Steering Group.

II. Summary of proceedings

A. Update on the implementation of Commission resolution 68/3
(Agenda item 2)

1. The meeting had before it the document entitled "Update on the implementation of Commission resolution 68/3" (E/ESCAP/PTA/IGM.1/1). The Director of the Trade and Investment Division introduced the document.

2. The Meeting noted the progress made in implementing Commission resolution 68/3.

B. Introduction to United Nations treaties and the roles and obligations of parties
(Agenda item 3)

3. A representative of the Treaty Section, Office of Legal Affairs, made a presentation on treaties and the Vienna Convention on the Law of Treaties.

4. Statements were made by representatives of the following countries: Iran (Islamic Republic of); and Republic of Korea.

5. The representative of the Republic of Korea requested the representative of the Office of Legal Affairs to clarify the difference between an "Agreement" and an "Arrangement". The representative of the Office of Legal Affairs clarified that it was not the title, but the substance, that made a text an international treaty.

6. Responding to a question from the representative of the Islamic Republic of Iran regarding the readiness of the current draft text of the regional arrangement, the representative of the Office of Legal Affairs stated that the text featured the standard final clauses of an international treaty.

C. Consideration of the draft text of a regional arrangement for the facilitation of cross-border paperless trade
(Agenda item 4)

7. The Meeting had before it the following documents: (a) "Draft text of a regional arrangement for the facilitation of cross-border paperless trade" (E/ESCAP/PTA/IGM.1/WP.1); (b) "Proposed amendments to the draft text of a regional arrangement for the facilitation of cross-border paperless trade" (E/ESCAP/PTA/IGM.1/CRP.1); (c) an addendum to "Proposed amendments to the draft text of a regional arrangement for the facilitation of cross-border paperless trade" (E/ESCAP/PTA/IGM.1/CRP.1/Add.1); and (d) "Explanatory note to the draft text of a regional arrangement for the facilitation of cross-border paperless trade" (E/ESCAP/PTA/IGM.1/CRP.2).

8. With reference to the proposed amendments distributed in advance, introductory statements were made by representatives of the following countries: Bangladesh; China; Republic of Korea; and Russian Federation. In addition, representatives of the following countries made statements: Iran (Islamic Republic of); and Japan.

9. In the process of negotiating the draft text of the regional arrangement, statements, proposals and interventions were made by representatives of the following countries: Azerbaijan; Bangladesh; China; India; Iran (Islamic Republic of); Japan; Lao People's Democratic Republic; Mongolia; Pakistan; Republic of Korea; Russian Federation; Thailand and Uzbekistan.

10. The meeting reviewed the draft text paragraph by paragraph. The following revisions and suggestions were made:

1. Preamble

11. A paragraph was added to the Preamble, reading "Recognizing the conclusion of the negotiation of the Agreement on Trade Facilitation at the ninth Ministerial Conference of the World Trade Organization and the importance of the implementation of the Agreement".

2. Substantive clauses

12. [redacted]

13. At the beginning of Article 5.1, the words "With recognition of rights to regulate," were added, while subparagraphs (a) and (c) were deleted from the same article.

14. In Article 5.1, the delegation of the Russian Federation proposed that three additional subparagraphs be added, namely: "(g) Unification. Interoperable information and communications technologies should have unified formats of information, while maintaining the unique content"; "(h) Scalability. Interoperable systems should have and maintain the capacity to enrol new participants both from within the country and from outside the country, enabling them to start operating quickly"; and "(i) Equal reliability of infrastructure, which implies common security requirements for all Parties".

15. In Article 5.2, the delegation of India proposed that ", including those for pre-shipment transboundary data exchange," be added after the word "documents".

16. In Article 6.1, the word "may" and the brackets were deleted while retaining "shall endeavour to". In Article 6.3, the word "committee" was substituted for "paperless trade committee" throughout.

17. In Article 7, the word "national" was deleted from the expressions "national single window" and "national single windows". The words "or upgrading existing ones," were added after the words "single window systems" in the second sentence of Article 7.2.

18. In Article 8.1, a second sentence was added, which read as follows: "To this extent, the Parties may constitute a technical group among themselves with the existing focal points". In Article 8.2, the word "mutually" was added before the word "agreed" and the word "upon" immediately after.

19. In Article 9.1, the words "and develop safe and secure communication protocols for the exchange of data" were added at the end.

20. In Article 10.1, the words ", where appropriate," were added after the word "shall", and the words "and accepted" were added after the word

"available". Proposals were made by the delegations of China, the Islamic Republic of Iran and the Republic of Korea to either delete the words "such as the United Nations Convention on the Use of Electronic Communications in International Contracts", or move them to the Preamble.

21. In Article 11, the delegations of India and the Islamic Republic of Iran proposed that the following two sentences be added at the end: "The data utilization by member Customs administrations and other government agencies should adhere to the principles of commercial secrecy, should prohibit unauthorized and should allow for remedial provisions, including compensation for commercial losses. The necessary legal protection from liability for member Customs administrations should also be incorporated."

22. In Article 13, the words "set out" were replaced by the word "include" and the words "and implement" after the word "develop" were deleted. The following words were added at the end ", including the implementation schedules of the respective Parties. The Parties shall implement the action plan in accordance with the schedule, and the implementation status of each Party shall be reported to the Standing Committee".

23. In Article 14.2, the word "shall" was replaced by the word "may", and the words "on a voluntary basis" were deleted.

24. In Article 15.1, the delegations of Bangladesh and the Islamic Republic of Iran proposed that the word "shall" be replaced by the word "may". In Article 15.3, the words "wherever possible" were deleted, and the words "and landlocked developing" were added before the word "country".

25. In Article 16.1, the following sentence was added: "The Parties recognize that least developed and landlocked developing countries may need technical and financial assistance to develop technical infrastructure and to create a legally enabling environment, which are essential for facilitating the cross-border exchange of trade-related data and documents in electronic form."

3. Final clauses

26. In Article 17.1, the words "an agreement" were replaced by the words "negotiation or consultation". In Article 17.3, the words "mutual agreement between the Parties to the dispute" were replaced by the words "the Parties involved in the dispute"; and the words "Executive Secretary of ESCAP" were replaced by the words "Secretary-General of the United Nations". Also in Article 17.3, the delegation of Japan proposed that the words "agree on" be replaced by the word "make". In Article 7.5, the words "agreement" and "agree" were replaced by the words "consent" and "decide" respectively.

27. In Article 20, the words "forty-five (45)" were replaced by the words "sixty (60)".

28. The delegation of India suggested that Article 21 be revised, indicating that it would propose an alternative wording at a later stage.

29. While good progress was made in revising the draft text and consensus was reached on most points, several proposed changes or additions would require further discussion and clarification.

30. Regarding the title of the draft text of the regional arrangement, the Meeting did not reach a consensus on the following options that were proposed by different delegations: "Agreement", "Framework Agreement" and "Framework Arrangement".

D. Other matters
(Agenda item 5)

31. The meeting discussed possible ways to finalize the draft text of the regional arrangement. While some member States expressed satisfaction with the text and a strong desire to finalize the text as an intergovernmental agreement as soon as possible, others indicated that more time was needed to refine the text and agree on the modalities for its adoption. All member States agreed, however, on the need to ensure that continued progress be made on enabling cross-border paperless trade facilitation.

32. In order that progress continue, the Chair of the Meeting proposed that an interim intergovernmental steering group on cross-border paperless trade facilitation be established. The Steering Group would be open to all interested ESCAP member States and would be tasked with: (a) further improving the draft text of the regional arrangement as a potential intergovernmental agreement; and (b) initiating work on the implementation of substantive provisions in the draft text, including cross-border mutual recognition of trade-related data and documents in electronic form, an action plan, pilot projects and sharing of lessons learned, and capacity-building. The Meeting agreed to the proposal made by the Chair and requested that the secretariat draft the terms of reference of the steering group (see chap. I, sect. B).

E. Adoption of the revised draft text of a regional arrangement for the facilitation of cross-border paperless trade
(Agenda item 6)

33. The Meeting adopted the draft text of a regional arrangement for the facilitation of cross-border paperless trade, as revised.

F. Adoption of the report of the meeting
(Agenda item 7)

34. [The meeting adopted the present report on 24 April 2014.]

III. Organization of the session

A. Opening, duration and organization

35. The Ad Hoc Intergovernmental Meeting on a Regional Arrangement for the Facilitation of Cross-border Paperless Trade was held in Bangkok from 22 to 24 April 2014.

36. The Deputy Executive Secretary of ESCAP made an opening statement.

37. Ms. Srirat Rastapana, Permanent Secretary, Ministry of Commerce of Thailand, made an opening statement.

B. Attendance

38. The session was attended by representatives of the following members of ESCAP: Afghanistan; Armenia; Australia; Azerbaijan; Bangladesh; Bhutan; Cambodia; China; India; Indonesia; Iran (Islamic Republic of); Japan; Kyrgyzstan; Lao People's Democratic Republic; Malaysia; Maldives; Mongolia; Nepal; Pakistan; Papua New Guinea; Philippines; Republic of Korea; Russian Federation; Sri Lanka; Tajikistan; Thailand; Timor-Leste; Turkey; Uzbekistan; and Viet Nam.

39. The session was also attended by representatives of the following United Nations Bodies: Office of Legal Affairs, United Nations Headquarters, and United Nations Commission on International Trade Law (UNCITRAL).

40. The following intergovernmental organization was represented: World Customs Organization.

41. A total of 17 observers also attended.[3]

C. Election of officers

42. The following officers were elected:

Chair:	Mr. Toya **Gyawali** (Nepal)
Vice-Chair:	Mr. Khemdeth **Sihavong** (Lao People's Democratic Republic)
Rapporteur:	Mr. Mahmood **Zargar** (Islamic Republic of Iran)

D. Agenda

43. The Meeting adopted the following agenda:

1. Opening of the meeting:
   (a) Opening address;
   (b) Election of officers;
   (c) Adoption of the agenda.
2. Update on the implementation of Commission resolution 68/3.
3. Introduction to United Nations treaties and the roles and obligations of parties.
4. Consideration of the draft text of a regional arrangement for the facilitation of cross-border paperless trade:
   (a) Preamble;
   (b) Substantive clauses;
   (c) Final clauses.
5. Other matters.
6. Adoption of the revised draft text of a regional arrangement for the facilitation of cross-border paperless trade.
7. Adoption of the report of the meeting.

[3] See E/ESCAP/PTA/IGM.1/INF/2.

Annex

List of documents

Document symbol	Document title	Agenda item
General series		
E/ESCAP/PTA/IGM.1/1	Update on the implementation of ESCAP resolution 68/3	2
Limited series		
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E/ESCAP/PTA/ IGM.1/L.2	Draft report	7
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Conference room papers		
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